

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHARLES E. ANDERSON, Trustee, on behalf of)
PAINTERS' DISTRICT COUNCIL NO. 30)
HEALTH AND WELFARE FUND, PAINTERS')
DISTRICT COUNCIL NO. 30 PENSION FUND,)
and NORTHERN ILLINOIS PAINTERS,)
DECORATORS AND DRYWALL FINISHERS)
JOINT APPRENTICESHIP AND TRAINING)
FUND; DONALD STEADMAN, Trustee, on behalf)
of the NORTHERN ILLINOIS PAINTING AND)
DRYWALL INSTITUTE; and the DISTRICT)
COUNCIL NO. 30 OF THE INTERNATIONAL)
UNION OF PAINTERS AND ALLIED TRADES,)
AFL-CIO, a labor organization,)

Case No. 08 CV 3877

Judge Gottschall

Plaintiffs,)

v.)

D & P CHICAGO, INC. an Illinois Corporation,)

Defendant.)

MOTION FOR DEFAULT AND TO COMPEL AN AUDIT

Plaintiffs, through counsel, move the Court under Fed.R.Civ.P. ("Rule") 55(a) for an order directing the Clerk of the Court to enter a default against Defendant D & P Chicago, Inc., and order Defendant to submit to an audit of its books and records for the period of January 1, 2007 through June 30, 2008, and in support state:

1. This is an action to collect contributions, dues, and assessments owed to employee benefit plans and a union.

2. The complaint was filed on July 8, 2008. Defendant's Registered Agent, attorney Anthony Slawniak, was personally served with a copy of the summons and complaint on July 12, 2008. [8]

3. Defendant has failed to appear, answer, or otherwise respond to the complaint within the time prescribed by Rule 12 and is therefore in default.

4. The total amount Defendant owes Plaintiffs is ascertainable through an audit, pursuant to the collective bargaining agreement and Trust Agreements to which Defendant is undisputedly bound, of Defendant's books and records for the pertinent period as requested by Plaintiffs.

WHEREFORE, Plaintiffs request that the Court direct the Clerk of the District Court to enter a default against Defendant D & P Chicago, Inc., and order Defendant to cooperate with and submit to an audit of its books and records for the period of January 1, 2007 through June 30, 2008, within 30 days of the entrance of the Court's Order, and in conformity with the complaint. A draft Order is attached hereto as Exhibit 1.

Respectfully submitted,

/s/ M. Garrett Hohimer
M. Garrett Hohimer
One of Plaintiff's Attorneys

Marisel Hernandez
M. Garrett Hohimer
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(312) 372-1646

Exhibit 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHARLES E. ANDERSON, et. al.,)	
)	
Plaintiffs,)	
v.)	Case No. 08 CV 3877
)	
D & P CHICAGO, INC. an Illinois Corporation,)	Judge Gottschall
)	
Defendant.)	
)	

ORDER

This matter having come before the Court on Plaintiffs' Motion for Default and to Compel an Audit, and the Court having jurisdiction of the parties and the subject matter, and having been fully advised of the premises, and Defendant having been properly served, but failed to appear, answer, or otherwise defend this cause in any way, it is hereby ordered as follows:

1. That Plaintiff's Motion is granted and that Defendant is in default;
2. That Defendant shall present copies or allow inspection and duplication of all business and financial records of D & P Chicago, Inc. as requested by Plaintiffs at a time and place indicated in writing by Plaintiffs, and in any event not later than 30 days after the entrance of this Order;
3. That the Court retains jurisdiction of this cause to enforce this Order.

ENTERED: _____

UNITED STATES DISTRICT JUDGE